

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

CHASITY WATKINS, as Guardian of the Person and	)	
Estate of AIDEN GREEN, A minor,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 18-CV-1297
	)	
VHS WEST SUBURBAN MEDICAL CENTER, INC.,	)	
et al.,	)	
	)	
Defendants.	)	

**UNOPPOSED MOTION PURSUANT TO FRCP 42**

NOW COMES the Plaintiff, CHASITY WATKINS, as Guardian of the Person and Estate of AIDEN GREEN, a minor, by and through her attorneys, COGAN & POWER, P.C., and moves this Honorable Court to enter an order granting the Plaintiff leave to file a Second Amended Complaint in the 18-CV-4142 matter to name VHS WEST SUBURBAN MEDICAL CENTER, INC., MARY LEUNG, R.N. and KARRI MACMILLIAN, D.O., and dismissing the Complaint in 18-CV-1297 in its entirety, without prejudice. In support thereof, the Plaintiff states as follows:

1. This matter was originally filed in the Circuit Court of Cook County, Law Division, on May 26, 2016 against the Defendants, VHS WEST SUBURBAN MEDICAL CENTER, INC., MARY LEUNG, R.N. and KARRI MACMILLIAN, D.O.

2. On November 1, 2017 Plaintiff was granted leave to file her Second Amended Complaint at Law, adding Defendants, NATASHA DIAZ, M.D. and TYLER CALLAHAN, D.O. Contemporaneous with the filing of the Second Amended Complaint a Standard Claim Form 95 was filed and served on the appropriate federal agency. Dr. Diaz and Dr. Callahan were working for a federally funded clinic at the time of the occurrence.

3. On February 21, 2018, the United States filed a Notice of Removal from the Circuit Court of Cook County to the United States District Court, Northern District of Illinois and a Motion to Dismiss. The matter was assigned case number 18-CV-1297.

4. As the Plaintiff had not yet exhausted her administrative remedies, the Court entered an order staying the matter until June 12, 2018.

5. Once the Plaintiff had exhausted her administrative remedies, she filed a Third Amended Complaint adding the United States in the 18-CV-1297 case. The United States moved to dismiss that complaint arguing that a new complaint must be filed following exhaustion of administrative remedies.. A new complaint naming the United States as a Defendant was filed and assigned case number 18- CV- 4142.

6. This matter is currently proceeding under two separate complaints for the same injury with largely the same set of operative facts.

7. On August 13, 2018 the Parties appeared before this Honorable Court and Judge Durkin questioned the proper way to proceed and whether it was appropriate to get all the parties under a single caption.

8. Under Federal Rule of Civil Procedure 42 “the Court may issue any order to avoid unnecessary cost or delay.”

9. The Parties, pursuant to this Court’s request, move this Honorable Court to enter the following order pursuant to FRCP 42:

- (A) That the Plaintiff is granted leave to file an Amended Complaint in 18- CV- 4142, naming VHS WEST SUBURBAN MEDICAL CENTER, INC., MARY LEUNG, R.N., and KARRI MACMILLIAN, D.O. as Defendants.
- (B) That any statute of limitations defenses that were not available to the Defendants, VHS WEST SUBURBAN MEDICAL CENTER, INC., MARY LEUNG, R.N., and KARRI MACMILLIAN, D.O., at the time the complaint was filed in 18-CV-1297, are waived.

- (C) That the original complaint, 18-CV-1297, is dismissed with all parties proceeding under the 18-CV-4142 compliant.
- (D) That if this matter is at any time remanded back to Illinois State Court that the dismissal of the 18-CV-1297 complaint will not be considered a voluntary dismissal or in any way effect the Plaintiff's rights under 735 ILCS 5/2-1009.

10. The Defendants do not oppose this motion.

WHEREFORE the Plaintiff prays this Honorable Court enter an order pursuant to FRCP 42 with relief as set forth above.

/s/ Michael P. Cogan  
One of the Attorneys for Plaintiff

Michael P. Cogan  
Sara M. Davis  
**COGAN & POWER, P.C.**  
One East Wacker Drive, Suite 510  
Chicago, Illinois 60601  
(312) 477-2500  
(312) 477-2501 (Fax)  
mcogan@coganpower.com  
sdavis@coganpower.com